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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/075,336
Filing Date: February 13, 2002
Appellant(s): BOYDSTUN ET AL.

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CONLEY ROSE, P.C.
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 31, 2010 appealing from the Office

action mailed March 31, 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 16-18 and 22-35 are pending in this case.

Claims 22-35 stand rejected.

Claims 16-18 have been withdrawn.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal

because they have been withdrawn by the Examiner:

The rejection of claim 25 is hereby withdrawn.

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in

the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,429,624	Sampson et al	12-2002
5,832,211	Blakley, III et al	11-1998
6,609,115	Mehring et al	8-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 22 and 26, and 28-35 are rejected under 35 U.S.C. §103(a) as being

unpatentable over Sampson et al (US 6,429,624) in view of Blakley, III et al (US

5,832,211).

Regarding claim 22 –

Under the broadest reasonable interpretation and for purposes of examination claim 22 is interpreted as comprising the following steps:

- migrating the source datastore to the target datastore

- intercepting, with an interceptor a request from a user seeking access to protected information

- using the source user authenticator to prompt for and receive identification and user authentication data.

Sampson discloses migrating a source datastore to a target datastore. See, e.g., col 5 ln 61- 67 where each registry is mirrored by another registry server. Also, at col 7 ln 25-32, where the registry server is coupled to access server, and col 8 ln 5-13 where registry server contains a registry repository as well as an authentication module and the registry repository is a database.

Sampson discloses intercepting with an interceptor. See, e.g. col 8 ln 60-65 describing a timeout after which is forced to logout and then log back in. See Col 13 ln 24-40 where access is granted when a valid session exists, and col 14 ln 5-50 describing timeout processing. Also, col 13 ln 12 where "login page is returned to client" as result of timeout.

Blakley discloses intercepting a request from a user seeking access to protected information. See, e.g., col 2 ln 27-55, where access to resources is protected by intercepting a request for resources with a request for authentication information. Also, col 5 ln 45-55 where data may be accessed by certain users and not by others.

See also, where Blakley describes change password function as a resource to be accessed at col 13 ln 40-45. See col 5 ln 45-55 where data may be accessed by certain users and not by others and also col 6 ln 18-col 7 ln 4 describing password synchronization

Blakely further discloses intercepting at, e.g., col 6 ln 10- 41, also col 13 ln 13 – col 14 ln 50 where client is required to produce the generated password obtained from the server in order to have password strength checked and be able to change password (access a resource).

Sampson discloses using a source user authenticator by requiring a login and password, col 7 ln 40-45).

Also, Blakley discloses using a source user authenticator where user must enter a generated password. (col 14 ln 5-15) (A user who want to change his/her password must enter the generated password at col 14 ln 5-50, also col 13 ln 39-44)

Note also the timeout function of Sampson requiring the user login again (col 13 ln 12).

Thus, Sampson in combination with Blakely discloses intercepting, with an interceptor a request from a user seeking access to protected information using the source user authenticator to prompt for and receive identification and user authentication data.

It would be obvious to one of ordinary skill in the art to combine Sampson and Blakely since both are in the same field in order to facilitate the use of data during the migration phase of the data transfer.

Regarding claim 26 –

Blakley discloses authenticating the received identification using the target user

authenticator upon determining that the target datastore includes user authentication

data associated with the corresponding identification. (col 23 ln 5-35),

Regarding claims 28-35 –

Note that claims 28-35 recite nonfunctional descriptive data, and as such, is not

further limiting thus not serving to further distinguish the claims from the prior art. *In re*

Gulack, 217 USPQ 401 (Fed. Cir. 1983), *In re Ngai*, 70 USPQ2d (Fed. Cir. 2004), *In re*

Lowry, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.01 II.

Claims 23, 24, and 27 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Sampson et al (US 6,429,624) in view of Blakley, III et al (US

5,832,211) further in view of Mehring et al (US 6,609,115).

Regarding claim 23 -

Blakley discloses the claimed invention except for the receiving a user

authentication data in a submission from the user after the initial submission of the

identification from the user. However, Blakley does disclose the use of a user

authentication/password and a corresponding unique account identification number. Col. 7,

lines 15-20.

Mehring teaches that it is known in the art to provide a receiving a user

authentication data/password in a submission from the user after the initial submission of

the identification from the user. Col. 10, lines 60-67.

It would have been obvious to one having ordinary skill in the art at the time the
invention was made to provide the password/unique identification element of Blakley with
the receiving a user authentication data/password in a submission from the user after the
initial submission of the identification from the user of Mehring, in order to increase the
security in accessing data. Further, It would have been obvious to modify the teachings of
Blakley, to provide the step of receiving a user authentication/password in a submission
from the user after the initial submission of the identification from the user.

Regarding claim 24 –

Blakley discloses the claimed invention, as discussed above, except for the step of
prompting for and receiving the identification and a user authentication/password from the
user after the initial submission of the identification from the user. It would have been an
obvious to modify the teachings of Blakley to provide the step of prompting for and
receiving the identification and a user authentication/ password from the user after the initial
submission of the identification from the user.

Since the applicant has not disclosed that prompting for and receiving the
identification and a user authentication/password from the user after the initial submission
of the identification from the user solves any stated problem in a new or unexpected way or
is for any particular purpose which is unobvious to one of ordinary skill and it appears that
the claimed feature does not distinguish the invention over similar features in the prior art
since, the teachings of Blakley will perform the invention as claimed by the applicant with
any means, method, or product to prompting for and receiving the identification and a
password from the user after the initial submission of the identification from the user.

It would have been obvious to one having ordinary skill in the art at the time the

invention was made to provide Sampson with the security method of Blakley with wherein

the action of prompting for and receiving the identification and a user

authentication/password from the user after the initial submission of the identification from

the user occurs after determining that the target data store does not include a user

authentication/password associated with the identification; and, wherein the action further

comprises using the source user authenticator to prompt for and receive the identification

and a user authentication/password from the user after the initial submission of the

identification from the user of Mehring, in order to authenticate the user requesting the data.

Regarding claim 27 –

Sampson and Blakley disclose as previously discussed.

Mehring teaches that it is known in the art to provide a receiving a password in a

submission from the user after the initial submission of the identification from the user,

further including web page in which the user is prompted to input login data. Col. 10, lines

60-67. It would be a predictable result for one of ordinary skill in the art for the webpage to

include fields for authentication data. *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d

1385 (U.S. 2007)

(10) Response to Argument

<u>The 103 rejection to claim 25 has been withdrawn</u>.

Note, that --

Language that suggests or makes optional but does not require steps to be performed

or does not limit a claim to a particular structure does not limit the scope of a claim or

claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

(A)statements of intended use or field of use,

(B)"adapted to" or "adapted for" clauses,

(C)"wherein" clauses, or

(D)"whereby" clauses.

This list of examples is not intended to be exhaustive. MPEP §2106 II C.

In this case, claim 22 recites a number of such instances of language that does not serve to further distinguish the claim from the prior art.

In the limitation beginning "migrating the source datastore . . .", the following –

-- "wherein the source datastore comprises . . ." recites nonfunctional descriptive data where the user identification and user authentication merely describe the source datastore. The recitation, therefore, does not serve to further distinguish the claim from the prior art.

-- "wherein the source datastore is associated . . ." recites nonfunctional descriptive data where the source user authenticator merely describes the source datastore. The recitation, therefore, does not serve to further distinguish the claim from the prior art.

-- "wherein the target datastore . . ." recites nonfunctional descriptive data which merely describes the target datastore. The recitation, therefore, does not serve to further distinguish the claim from the prior art.

-- "wherein the target user authenticator . . ." recites nonfunctional descriptive data which merely describes the authenticator. The recitation, therefore, does not serve to further distinguish the claim from the prior art.

In the limitation beginning "intercepting, with an interceptor . . .", the following ----- "wherein the interceptor . . ." recites intended use, *i.e.*, what the interceptor is capable of doing, yet may or may not do. In other words, the interceptor is not actively doing anything, but seeking to do or intending to do. Additionally, the recitation is one nonfunctional data.

In the limitation beginning "forwarding the original . . .", the following —
--"upon determining . . . " recites an optional language which may or may not occur and thus does not constitute a step that actively occurs.

In the limitation beginning "using the source user authenticator . . ', the following –
-- the recitation "to prompt . . ." does not constitute a positively recited step, but rather describes the result of "using".

-- the recitation "upon an approval response . . ." indicates intended use of the monitoring (upon approval) and therefore does not serve to further distinguish the claim from the prior art.

Note that, were the limitations above-described in claim 22 positively recited, which would also alleviate any issues of "abstractness", <u>the claim would likely be allowable</u>. Examiner has attempted to work with Appellant in this regard, granting, in fact, multiple interviews in this case.

In light of the above analysis, under the broadest reasonable interpretation, and for purposes of examination claim 22 is interpreted as comprising the following steps:

   – migrating the source datastore to the target datastore

— intercepting, with an interceptor a request from a user seeking access to

protected information

— using the source user authenticator to prompt for and receive identification and

user authentication data.

First Issue

Appellant argues, regarding claim 22, that nothing in the cited prior art teaches,

discloses or suggests, capturing the password provided to the source user

authenticator, monitoring the source user authenticator for an approval response and

populating the target datastore with the captured password upon receipt of an approval

response.

Examiner respectfully disagrees. Note that the limitation beginning "using the

source user authenticator . . ', the following –

-- the recitation "to prompt . . ." does not constitute a positively recited step, but rather

describes the result of "using".

-- the recitation "upon an approval response . . ." indicates intended use of the

monitoring (upon approval) and therefore does not serve to further distinguish the claim

from the prior art. See MPEP §2106 II C.

Second Issue

Appellant argues, regarding claim 22, that nothing in the cited prior art teaches,

discloses or suggests, migrating password data from a source datastore to a target

datastore.

Examiner respectfully disagrees. Note that in the limitation beginning "migrating the source datastore . . .", the following –

-- "wherein the source datastore comprises . . ." recites nonfunctional descriptive data where the user identification and user authentication merely describe the source datastore. The recitation, therefore, does not serve to further distinguish the claim from the prior art.

-- "wherein the source datastore is associated . . ." recites nonfunctional descriptive data where the source user authenticator merely describes the source datastore. The recitation, therefore, does not serve to further distinguish the claim from the prior art.

-- "wherein the target datastore . . ." recites nonfunctional descriptive data which merely describes the target datastore. The recitation, therefore, does not serve to further distinguish the claim from the prior art.

-- "wherein the target user authenticator . . ." recites nonfunctional descriptive data which merely describes the authenticator. The recitation, therefore, does not serve to further distinguish the claim from the prior art. See MPEP §2106 II C.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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